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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,616	03/09/2004	John Allan Grinstead		1773

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EXAMINER

LAVINDER, JACK W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/796,616	GRINSTEAD, JOHN ALLAN	
	Examiner	Art Unit	
	Jack W. Lavinder	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims state that the band has a U-shaped link. The drawings fail to disclose a U-shaped link. The link (5) is a loop-shape not a U-shape. The examiner suggests changing "U-shaped" to "loop-shaped".

Claim 1 also claims the wearer in the last two lines of the claim: "said wearer". "said wearer" lacks antecedent basis. The examiner suggests changing "said wearer" to "a wearer".

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 have been rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to claiming the wearer and the arm of the wearer. The claiming of human body parts is not one of the statutory categories of subject matter outlined in the patent laws. This subject matter must be deleted.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 has been rejected under 35 U.S.C. 102(b) as being anticipated by Brannen, 971519.

Regarding claim 1, Brannen discloses an ornamental band including a rigid plate (end portion defined by numeral 12) with at least one lateral recess (recesses are located on both sides of the plate 12), a springy band (5) rigidly attached to plate (12) on one end and a u-shaped link (8-11) rigidly attached to the other end. The u-shaped link is adapted to settle in the lateral recess in the edge of the plate because of the bias of said springy band.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 3 have been rejected under 35 U.S.C. 102(e) as being anticipated by Goodin, 6976327.

Regarding claims 1 and 3, Goodin discloses an ornamental band including a rigid plate (14) with at least one lateral recess (16b), a springy band (12) rigidly attached to the plate (14) on one end and a u-shaped link (16f, 16g, figure 10) rigidly attached to the other end. The u-shaped link is adapted to settle in the lateral recess (16b) in the edge of the plate because of the bias of said springy band, i.e., the teeth (16h and 18) interlock to prevent the springy band from springing out of the lateral recess (16b). The bracelet includes indicia for identifying the baby, such as name, date of birth, mother's name and the like.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 4 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Goodin in view of Rigberg, 4897826.

Regarding claim 2, Goodin fails to disclose a timepiece on the plate. However, Rigberg, 4897826, discloses a band with a plate having a timepiece (13) on the plate for displaying time. It would have been obvious to a person having ordinary skill in the art to provide Goodin's bracelet with a timepiece to provide a means for the wearer to check the time.

Regarding claim 4, Goodin fails to disclose placing medical information on the bracelet. The examiner takes official notice that indicia on a bracelet identifying the

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wearer's medical conditions is well known to the person in the art. It would have been obvious to provide indicia on Goodin's bracelet to identify any medical conditions affecting the baby in order to prevent any harm from coming to the baby, i.e., certain medical conditions could have fatal consequences if certain medications are administered to the baby with this medical condition.

Response to Arguments

8. Applicant's arguments filed 2/10/06 have been fully considered but they are not persuasive.


The applicant argues that the examiner has not made a case for the 112 second paragraph rejection indicating that the limitation "u-shaped link" is misdescriptive. The office action, in section 2, clearly states the case. The link (5) is shown as a loop on the end of the springy band. It is not u-shaped. Again, the claim limitation is still considered to be misdescriptive. The link is a loop formed on the end of the springy band.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W Lavinder
Primary Examiner
Art Unit 3677

4/7/06